

Message Text

LIMITED OFFICIAL USE

PAGE 01 CAIRO 01241 01 OF 02 211738Z

ACTION NEA-10

INFO OCT-01 ISO-00 INT-05 EB-08 COME-00 L-03 CIAE-00

INR-07 NSAE-00 TRSE-00 OMB-01 FEAE-00 /035 W

-----211825Z 130307 /43

R 211533Z JAN 77

FM AMEMBASSY CAIRO

TO SECSTATE WASHDC 889

INFO AMCONSUL ALEXANDRIA

LIMITED OFFICIAL USE SECTION 1 OF 2 CAIRO 1241

E.O. 11652: N/A

TAGS: BDIS EG US

SUBJ: FIRST APPALACHIAN CORP. (FAC)

REF: A. STATE 004248; B. 76 CAIRO 17252; C. ALEX. 0031; D.

ALEX. 0043 E. STATE 00717 F. NOV. 29 BLACK-SHAHINE LETTER

1. SUMMARY: AMBASSADOR WILLING IN PRINCIPLE TO RAISE FIRST APPALACHIAN MATTER WITH MININD SHAHINE. IN VIEW CHEMICOKE CHAIRMAN FARID'S ACCOUNT OF DISPUTE, HOWEVER, BELIEVE IT WILL BE NECESSARY, IN ORDER MAKE EFFECTIVE PRESENTATION OF CASE, TO SEEK ADDITIONAL CLARIFICATIONS FROM BLACK. ALTHOUGH WE WILL SIMPLY BE ON MERRY GO AROUND WITH EACH SIDE ASSERTING ITS CONTENTIONS.
END SUMMARY

2. FOLLOWING AMBASSADOR'S RETURN FROM U.S.; HE REVIEWED EXCHANGES ON FIRST APPALACHIAN MATTER, IN CLUDING BLACK LETTER TO NEA/EGY, MININD SHAHIN, AND GHORBAL. IN EFFORT BE HELPFUL TO BLACK, AMBASSADOR WOULD BE WILLING IN PRINCIPLE TO RAISE MATTER WITH MININD SHAHIN. IT WILL BE NECESSARY, HOWEVER, TO BE CERTAIN THAT AMBASSADOR IS ARMED WITH ALL THE FACTS, AND THAT THOSE FACTS MAKE IT POSSIBLE TO PUT FORWARD A CONVINCING CASE ON BLACK'S BEHALF.
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 CAIRO 01241 01 OF 02 211738Z

3. IN EFFORT TO CLARIFY SOME POINTS AT ISSUE, AMBASSADOR ASKED COMATT TO MAKE CALL ON CHEMICOKE CHAIRMAN FARID FOR FURTHER DISCUSSION OF CASE. FARID'S ACCOUNT ACCORDS, IN ITS ESSENTIAL, WITH VERSION REPORTED REF B, HIGHLIGHTS FOLLOW;
A. CONTRACT TERMS: COAL SUPPLY CONTRACTS HELD BY BLACK, AND BY CHEMICOKE'S GERMAN, POLISH, AND RUSSIAN SUPPLIERS, AND L/C'S

AND OTHER DOCUMENTS RELATED TO THOSE CONTRACTS, DID NOT ORIGINALLY CONTAIN RESTRICTION ON LENGTH OF SHIP THAT COULD BE USED TO DELIVER THE COAL.

6. SHIP LENGTH RESTRICTION: QUESTION OF LENGTH OF COAL SHIPS HAD NEVER ARISEN UNTIL, IN LATE AUGUST 1976, ALEXANDRIA PORT AUTHORITIES HAD GREAT DIFFICULTY HANDLING A VERY LARGE COAL SHIP (THE "LORENZO HALCOURSI") AND ASKED FARID TO HAVE HIS SUPPLIERS LIMIT SIZE OF THEIR DELIVERY VESSELS TO 620 FEET. (AS REF. D INDICATES 620 FEET WAS APPARENTLY MEANT TO BE GUIDELINE RATHER THAN ABSOLUTE LIMITATION, ALTHOUGH IT IS NOT CLEAR WHETHER FARID KNEW THIS AT TIME.) ACCORDINGLY, FARID SENT MESSAGE TO ALL SUPPLIERS ASKING THAT THE HOLD LENGTH OF VESSELS USED TO 620 FEET. SINCE NO SUCH RESTRICTION HAD BEEN INCLUDED IN ORIGINAL DOCUMENTS, HOWEVER, CHEMICOKE WAS NOT RELALLY IN POSITION TO INSIST THAT SUPPLIERS COMPLY.

A. BLACK'S REACTION: REACTION F DIFFERENT SUPPLIERS TO REQUEST VARIED GREATLY, BLACK, ACCORDING FARID , REPLIED BY SAQNG HE WOULD DISMISS LARGE SHIP (THE "DEMETRIOUS") WHICH HE HAD BEEN PLANNING TO USE AND WOULD SUBSTITUTE OTHER VESSELS. HE DID NOT, AT TIME LENGTH LIMITATION REQUEST WAS MADE, GIVEN ANY INSTRUCTON THAT RESTRICTION POSED PROBLEM FOR HIM OR WOULD PREVENT HIM FROM MAKING DELIVERY OF COAL. B. SEPTEMBER TELEX FROM BLACK: FAR FROM OBJECTING TO LENGTH LIMINATION, BLACK AGREED TO, INDEED INVITED, IT S INCORPORATION IN LETTER OF CREDIT APPLICABLE TO THE TRANSACTION. ON SEPTEMBER 1, BLACK SENT TO CHEMICOKE

A TELEX MESSAGE (SHOWN BY FARID TO COMATT) READING, IN PERTIENT PART: "ABLE ARRANGE DISMISSAL (OF SHIP 'DEMETRIOUS') AND SUBSTITURE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 CAIRO 01241 01 OF 02 211738Z

A SHIP OF YOUR SPECIFICATIONS AWAITING YOUR CONFIRMATION OF YOUR CHANGING L/C CONDITIONS TO CONFORM TO YOUR REQUEST FOR SUBSTITUTE VESSEL. UPON RECEIPT CONFIRMATION OF L/C CHANGE, WILL TELEX SCHEDULE ALL SHIPMENTS. BEST REGARDS. H.P. BLACK"

E. AMENDMENT TO LETTER OF CREDIT AND SEPTEMBER 4 CABLE FROM BLACK: UPON RECEIPT OF SEPT 1 MESSAGE, FARID ACTED TO HAVE L/C AMENDED TO INCLUDE LENGTH RESTRICTIONS. SUBSEQUENT TELEGRAM WAS SENT BY BLACK SEPTEMBER 4, FIVING NEW SHIPPIN G SCHEDULE, AS SEPT. 1 MESSAGE SAID WOULD BE DONE AFTER LETTER OF CREDIT WAS CHANGED. SCHEDULE GIVEN IN SEPT 4 CACLE INDICATES THERE WOULD BE THREE SHIPMENTS OF APPROXIMATELY 30,000 TONS EACH, ON SEPT . 14, 23, AND 28. MESSAGE ALSO ASKED THAT L/C BE EXTENDED 30 DAYS AND ADDED

"WILL INSTRUCT OUR BANK TO EXTEND OUR LETTER OF GUARANTEE ACCORDINGLY "

LETTER OF CREDIT (ACCORDING TO FARID) HAD ALREADY BEEN AMENDED TO INCLUDE LENGTH LIMITATION AND IT WAS THEREFORE THE AMENDED L/C THA

T
BLACK WAS SEEKING TO HAVE EXTENDED. IN COMPLIANCE WITH BLACK'S REQUES
T
FARID EXTENDED LETTER OF CREDIT --- NOT MERELY FOR 30 DAYS BUT UNTIL
LATE
NOVEMBER WHEN CHEMICOKE'S FOREIGN EXCHANGE ALLOCATION EXPIRED.

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 CAIRO 01241 02 OF 02 211750Z
ACTION NEA-10

INFO OCT-01 ISO-00 INT-05 EB-08 COME-00 L-03 CIAE-00
INR-07 NSAE-00 TRSE-00 OMB-01 FEAE-00 /035 W
-----211825Z 130410 /43

R 211533Z JAN 77
FM AMEMBASSY CAIRO
TO SECSTATE WASHDC 890
INFO AMCONSUL ALEXANDRIA

LIMITED OFFICIAL USE SECTION 2 OF 2 CAIRO 1241

F. "UNILATERAL" AMENDEMENT OF L/C: RE ALLEGATION THAT CHEMICOKE
"UNILATERALLY AMENDED L/C, FARID ASSERTS NOT ONLY THAT BLACK
AGREED TO AMENDMENT, CITING SEPTEMBER 1 TELEX, BUT ALSO THAT
IN TERMS OF STANDARD INTERNATIONAL COMMERCIAL PRACTICE, UNILATERAL
AMENDMENT OF L/C: COULD NOT BE ACCOMPLISHED.
IN ORDER TO AMEND, HE HAD TO ASK HIS BANK TO SEEK AGREEMENT
OF SUPPLIER'S BANK, WHICH IN TURN WOULD NOT AGREE TO CHANGE
WITHOUT FIRST OBTAINING CONSENT OF SUPPLIER FOR WHOM
L/C HAD BEEN OPENED.

G. FAILURE TO SHIP: THUS, AS OF EARLY SEPTEMBER, BLACK HAD PROPOSED
SHIPPING SCHEDULE, WITH LAST SHIPMENT TO BE SENT SEPTEMBER 28.
FARID HAD CONCURRENT IN SCHEDULE. PROMISED DELIVERIES, HOWEVER,
WERE NOT MADE.

H. "WAVE" OF TELEXES: IN LATER OCTOBER, AFTER NOT HAVING HEARD
FROM BLACK FOR SOME TIME AND AFTER HAVING RECEIVED NO DELIVERIES,
CHEMICOKE BEGAN TO GET A "WAVE" OF TELEXES FROM BLACK. THESE
MESSAGES ACCUSED CHEMICOKE

OF UNFAIR DEALING AND DISCRIMINATION AND INDICATED FOR THE FIRST
TIME FAC OBJECTION TO AND PROBLEMS WITH LENGTH LIMITATION.

I. EXPIRATION OF LETTER OF CREDIT: BY THEN (LATE OCTOBER), IN
FARID'S VIEW, IT WAS PROBABLY TOO LATER TO COMPLETE DELIVERY OF
COAL BEFORE EXPIRATION OF LETTER OF CREDIT AND OF FOREIGN EXCHANGE
ALLOCATION. HE INVITED BLACK TO MAKE PARTIAL SHIPMENT IF HE COULD,
BUT FARID HAD NO INTENTION OF SEEKING NEW FX ALLOCATION OR

EXTENDING L/C -- ON ANY TERMS -- FOR SUPPLIER WHOM
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 CAIRO 01241 02 OF 02 211750Z

HE REGARDED AS ENTIRELY UNRELIABLE. EXCHANGES OF MESSAGES, SOME APPARENTLY SHARPLY-WORDED, THEN TOOK PLACE, AND BLACK AT ONE POINT SENT REPRESENTATIVE TO CAIRO TO CONFER WITH FARID. LETTER OF CREDIT EXPIRED IN NOVEMBER, HOWEVER, WITHOUT PARTIES COMING TO TERMS AND WITHOUT ANY DELIVERY OF COAL BY BLACK.

J. SHIP SEIZES: BRITISH AND GERMAN SUPPLIERS

FARID RUEADILY ADMITTED THAT BRITISH AND GERMAN COAL BROKERS (SUPPLYING AMERICAN COAL, FARID NOTED) HAD MADE DELIVERIES IN SHIPS LARGER THAN 620 FEET AND THAT HE HAD INTERCEDED WITH ALEXANDRIA PORT AUTHORITIES TO PERMIT UNLOADING OF THESE VESSELS. HE SPECIFICALLY RECALLED NAMES "VEEDOL" (GERMAN SUPPLIER'S SHIP) AND "SPRING ODESSA (BRITISH) AS WELL AS THAT OF "LORENZO HALCOUSSE", WHICH WAS BRITISH COMPANY'S SHIP WHOSE SIZE AND DIFFICULTY OF HANDLING HAD CAUSED PORT AUTHORITIES INITIALLY TO SEEK LENGTH LIMITATION.

K. DISCRIMINATION QUESTION

BRITISH AND GERMAN USE OF LARGER VESSELS HAD NOTHING TO DO WITH DISCRIMINATION, HOWEVER, BUT REFLECTED FACT THAT THESE SUPPLIERS HAD REACTED TO LENGTH LIMITATION REQUEST IN VERY DIFFERENT MANNER FROM BLACK. BRITISH SIMPLY REFUSED TO AGREE TO ANY SUCH LIMITATION, SINCE IT HAD NOT BEE PART OF ORIGINAL CONTRACT. GERMANS REFUSED TO AGREE TO LIMITATION WITH RESPECT TO SHIPS ALREADY CONTRACTED FOR, BUT FLEW A TEAM TO CAIRO IMMEDIATELY TO DISCUSS MATTER WITH FARID. EVENTUALLY, IT APPEARS, THEY DID AGREE TO SOME LIMITATION (BUT NOT AS LITTLE AS 620 FEET) WHICH THEY FELT THEY COULD LIVE WITH. SINCE LENGTH LIMITATIONS WERE NOT PART OF ORIGINAL CONTRACT, CHEMICOKE WAS NOT IN STRONG POSITION TO INSIST ON COMPLIANCE. FARID WAS THEREFORE FORCED TO SEEK SPECIAL PERMISSION FROM PORT AUTHORITIES FOR LONG SHIPSO OF THESE SUPPLIERS TO UNLOAD. AS BLACK NEVER RAISED ANY OBJECTION TO LENGTH LIMITATION, HOWEVER, QUESTION OF SEEKING SPECIAL PERMISSION FOR HIM NEVER AROSE. EVENTS PRIOR TO AUGUST 1976 FOREGOING PARAGRAPHS GIVE FARID'S ACCOUNT OF EVENTS AS THEY RELATED
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 CAIRO 01241 02 OF 02 211750Z

TO BLACK'S PRIMARY GRIEVANCES --" DISCRIMINATION" AND "UNILATERAL" AMENDEMENT OF LETTER OF CREDIT TO INCLUDE LENGTH RESTRICTION. HOWEVER, FARID ALSO ADDRESSED, DURING DISCUSSION, QUESTION OF EVENTS WHICH HAD OCCURRED PRIOR TO TIME LENGTH LIMITATION ISSUE AROSE IN LATER AUGUST.

FARID ACKNOWLEDGED THERE HAD BEEN DELAY BETWEEN TIME FAC'S TEST SHIPMENT WAS APPROVED IN MARCH/APRIL AND OPENING OF L/C IN JUNE. AFTER L/C WAS OPENED, HOWEVER, BLACK PROMISED DELIVERY AND GAVE SHIPPING SCHEDULE, BUT FAILED TO ACTUALLY, MAKE DELIVERY. BLACK'S LETTER OF NOV. 29 TO MINISTER SHAHIN REFERS TO MINERS' HOLIDAY, COAL STRIKE, AND FORCE MAJEURE. BUT FARID CLAIMS BLACK NEVER RAISED THESE PROBLEMS IN COMMUNICATIONS WITH HIM. HE(BLACK) SIMPLY PROMISED, BUT FAILED, TO DELIVER.

4. QUESTIONS NEEDING CLARIFICATION:

IN VIEW OF FARID'S ACCOUNT, AMBASSADOR BELIEVES ANSWERS TO A NUMBER OF QUESTIONS ARE NEEDED BEFORE PROCEEDING TO RAISE MATTER WITH MINISTER SHAHINE:

A. DID BLACK RAISE OBJECTION WHEN CHEMICOKE FIRST REQUESTED LENGTH LIMITATION? DID HE INDICATE EARLY ON THAT SUCH LIMITATION WOULD PREVENT HIM FROM DELIVERING COAL? IF HE WAITED UNTIL OCTOBER TO PROTEST, WHY DID HE DELAY SO LONG?

B. DID HE AT TIME LENGTH RESTRICTION WAS REQUESTED, ATTEMPT TO WORK OUT EXCEPTION; WHY DOES HE BELIEVE DISCRIMINATION EXISTED IF BRITISH AND GERMANS SOUGHT AND OBTAINED EXCEPTIONS, WHILE HE ACQUIESCED?

C. IN VIEW BLACK'S CLAIM THAT HE NEVER AGREED TO AMENDMENT OF L/C TO INCLUDE LENGTH RESTRICTION, WHAT IS HIS EXPLANATION OF SEPTEMBER 1 TELEX CITED BY FARID, WHICH SUGGESTS THAT HE INVITED AMENDMENT?

D. WHAT IS HIS COMMENT ON FARID'S CONTENTION THAT L/C COULD NOT, UNDER NORMAL COMMERCIAL PRACTICE, BE UNILATERALLY AMENDED?

E. DID BLACK IN FACT PROPOSE SHIPPING SCHEDULE DURING SUMMER, THEN FAIL, WITHOUT EXPLANATION, TO DELIVER? DID HE AGAIN PROPOSE SHIPPING SCHEDULE IN SEPTEMBER (PER LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 CAIRO 01241 02 OF 02 211750Z

SEPTEMBER 4 CABLE), AND AGAIN FAIL TO MAKE DELIVERY?
EILTS

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Sent Date: 21-Jan-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977CAIRO01241
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770023-0312
Format: TEL
From: CAIRO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770131/aaaabatv.tel
Line Count: 263
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 711261d3-c288-dd11-92da-001cc4696bcc
Office: ACTION NEA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 77 STATE 4248, 76 CAIRO 17252, 77 ALEXANDRIA 31
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 24-Jan-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3542271
Secure: OPEN
Status: NATIVE
Subject: FIRST APPALACHIAN CORP. (FAC)
TAGS: BDIS, EG, US
To: STATE
Type: TE
vdkgvwkey: odhc://SAS/SAS.dbo.SAS_Docs/711261d3-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009